IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 6984 of 2007(F)

PETITIONER:

PASTOR JOHN SKARIAH, AGED 63 YEARS,
PASTOR OF IPC PHILADELPHIA CHURCH, PARUMPATTY P.O.
MALLAPPALLY TALUK, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.K.P.DANDAPANI (SR.)
SRI.SREENIJIN P.V.
SRI.SONY K.B.
SRI.PAUL MATHEW (PERUMPILLIL)

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE,
PERUMPATTY, PERUMPATTY P.O., MALLAPPALLY TALUK,
PATHANAMTHITTA DISTRICT.

2. THE CIRCLE INSPECTOR OF POLICE,
PERUMPATTY, PERUMPATTY P.O., MALLAPPALLY TALUK,
PATHANAMTHITTA DISTRICT.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVALLA.

4. PASTOR ABRAHAM SHAJI,
RESIDING AT FAITH HOME (PARSONAGE),
IPC PHILADELPHIA, PERUMPATTY P.O.,
PATHANAMTHITTA DISTRICT.

Addl. 5. CHERIAN EAPEN, AGED 43 YEARS,
S/O.LATE K.C.EAPEN,
KARUMTHOTTICKAL, PERUMPETTY P.O.,
MALLAPPALLY.

" 6. V.J.GEORGE, AGED 57 YEARS,
S/O.LATE VARGHESE YOHANAN,
VETTUVELIL HOUSE,'
PERUMPETTY P.O.

" 7. KERALA STATE COUNCIL,
INDIAN PENTECOSTAL CHURCH OF GOD,
REGD.NO.9/1935-36, HEBRON,
KUMBANAD - 689547.
REPRESENTED BY STATE COUNCIL MEMBER
SUNNY THOMAS MULAMOOTTIL.

(ADDL.R5 & R6 ARE IMPLEADED AS PER ORDER DTD.14/3/2007 IN I.A.3963/07)

(ADDL.R7 IS IMPLEADED AS PER ORDER DTD.26/3/2007 IN I.A.NO.4654/2007).

R1 TO R3 BY GOVT.PLEADER SRI RAVINDRA BABU.

R4 BY ADV. SRI.V.PHILIP MATHEW
R5 & R6 BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)
SRI.BINDU SREEKUMAR
R7 BY ADV. SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE
SRI.T.KRISHNAN UNNI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.6984/2007

APPENDIX

PETITIONER'S EXTS:

EXT.P1 LETTER OF APPOINTMENT OF THE PETITIONER DTD. 19/9/2006.

EXT.P2 REQUEST DTD. 20/2/2007 MADE TO IST RESPONDENT.

EXT.P3 REQUEST DTD. 20/2/2007 MADE TO 2ND RESPONDENT.

EXT.P4 REQUEST DATED 20/2/2007 MADE TO 3RD RESPONDENT.

RESPONDENTS' EXTS:

EXT.R4A COPY OF THE ORDER PASSED BY THE MUNSIFF'S COURT, THIRUVALLA IN I.A.2785/26 IN O.S.418/06.

EXT.R4B COPY OF THE JUDGMENT IN WP(C).NO.5332/07 DATED 22/2/07.

EXT.R4C COPY OF THE MEMORANDUM OF ASSOCIATION ANDL CONSTITUTION OF THE INDIAN PENTECOSTAL CHURCH OF GOD (IPC).

EXT.R7A TRUE PHOTOSTAT COPY OF THE LETTER DATED 13/2/2007 ISSUED TO THE 4TH RESPONDENT.'

EXT.R7B TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE 4TH RESPONDENT.

EXT.R7C TRUE PHOTOSTAT COPY OF THE LETTER DATED 13/3/207 SENT TO THE 4TH RESPONDENT.

EXT.R7D TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT CARD DATED 21/3/07 SENT TO THE 4TH RESPONDENT.

ANNEXURE-1 COPY OF THE JUDGMENT IN WP(C).5786/07.

P.R.RAMAN & K.HEMA, JJ.

W.P.(C).NO.6984 OF 2007

Dated this the 29th day of June, 2007

JUDGMENT

Raman,J.

Petitioner is stated to be a Pastor of the Indian Pentecostal Church of God, having its headquarters at Hebron, Kumbanad. A copy of the order of appointment dated 19/9/2006 is produced as Ext.P1. According to him, pursuant to Ext.P1 order appointing him as Paster of Philadelphia Perumpatty Church, he proceeded to take charge and to conduct the service in the Church. But the 4th respondent, the former Paster of the Church , who was residing in the parsonage attached to the Philadelphia Church, obstructed the petitioner and the believers from conducting the services in the Church for reasons best known to him and the matter was reported to the headquarters of the Church and the 3rd respondent intervened and as an interim measure, to avoid further unpleasant situation, directed the petitioner and the believers of the Church to conduct the Sunday service at the house of one of the believers, who stays nearby. It is stated that pursuant to the appointment made, the petitioner is entitled as of right to conduct

service in the Church and also to occupy the parsonage attached to the Church to stay with his family. Police ought to have removed the obstruction caused by the 4th respondent. According to the petitioner, the difficulties experienced with the temporary arrangement was brought to the notice of respondents 1 to 3 and they promised that they will look into the matter and do the needful. But no positive action has been taken by the police. Ext.P2 is a copy of the letter dated 20/2/2007 seeking police protection. Exts.P3 and P4 are yet another representations dated 21/2/2007 and 23/2/2007 respectively. It is alleged that police authorities have not taken action, despite repeated representations made in this behalf and hence the petitioner seeks to issue a writ of mandamus or other appropriate direction commanding respondents 1 to 3 to give adequate and effective police protection to the petitioner to conduct the services in the Philadelphia Perumpatty Church and also to the members of the said Church attending the service and other consequential reliefs.

2. The 4th respondent has filed a counter affidavit. According to him, the petitioner has suppressed some material facts from this Court and contended that the writ petition is not maintainable. Besides, it is also contended that Ext.P1 produced by the petitioner is

not in force and he placed Exts.R4(a) and R4(b), which are copies of the order passed by the Munsiff's Court, Thiruvalla in IA.No.2785/2006 in OS.No.418/2006 and the judgment of this Court in W.P.(C).No.5332/2007. According to him, the petitioner is not entitled to seek police protection.

3. Though a petition was filed to implead one Raju Eapen, Paster of Church, as per I.A.No.8770/2007, we do not think it necessary to implead him in the writ petition. However, the learned counsel Sri Krishnan Unni apparing for the said Raju Eapen was elaborately heard.

4. A detailed counter affidavit is filed by the authorised power of attorney holder of the additional 7th respondent producing Exts.R7 (a) to R7(d). It is stated that by Ext.P1 order, the petitioner was appointed as Pastor and has taken charge on 24/9/2006 and that the 4th respondent Pastor worked against the interests of the Church and action was taken against him by the State Council. The 4th respondent approached the Munsiff's Court by filing O.S.No.418/2006 and obtained an order of injunction against his removal from the primary membership of the Church. According to him, in Ext.R4(a) order passed by the Munsiff's Court, it was held that since another

Pastor is already appointed to the local Pentecostal Church, Perumpatty, the prayer in the petition has become infructuous. According to the 7th respondent, the main case advanced by the 4th respondent, who was the plaintiff, was that the order removing him or dismissing him was passed in violation of the principles of natural justice. Subsequently, after adhering to the principles of natural justice, Ext.R7(c) was passed. Therefore, the defect, if any, noticed by the Munsiff's Court which weighed with that court in passing the order is no longer in force.

5. We have heard the argument of the learned Senior Counsel Sri K.P.Dandapani appearing on behalf of the petitioner, Sri Joby Jacob Pulickekudy appearing on behalf of the additional 7th respondent, Sri Krishnan Unni appearing on behalf of Raju Eapen, Sri V.Philip Mathews appearing on behalf of the 4th respondent, the Senior Counsel Sri V.N.Achutha Kurp appearing on behalf of respondents 5 and 6 and also the learned Government Pleader appearing on behalf of respondents 1 to 3.

6. Ext.R4(a) is an order of injunction passed by the Munsiff's Court in I.A.No.2785/2006 in O.S.No.418/2006, which is in force. That order was passed in a suit instituted by the 4th respondent. The

operative portion of the order of injunction reads as follows:

> **"In the result, the petition is allowed and the defendants are restrained by temporary injunction from taking any further action in pursuance of Ext.A1 communication dated 4/9/06 against the plaintiff till the disposal of the suit. The petition is allowed as above. Considering the facts and circumstances, I order no cost."**

7. Ext.A1 communication is dated 4/9/2006, a copy of which was made available for perusal by which the 4th respondent herein was removed from the membership of the Church for the reasons stated therein. This is the subject matter of challenge in the suit. Exts.B5 and B7 are same date, 19/9/2006, which are respectively copy of the communication issued by the India Pentecostal Church of God, Kerala State Concil and another communication by the same Church. The argument on behalf of the lst defendant, who is the 7th respondent herein, was that by Exts.B5 and B7 produced in the suit, the plaintiff (4th respondent herein) was already transferred and a new Pastor was appointed to the local Church. The Munsiff's Court found merit in that argument and that the prayer in the petition against transferring the plaintiff is therefore infructuous. But on consideration of the entire materials, the Munsiff's Court found that Ext.A1 communication was issued without giving an opportunity of

being heard in the matter. Therefore, any further action by the defendant against the plaintiff on the basis of Ext.A1 communication, is to be restrained by an order of injunction. Having satisfied with a prima facie case, it was found that in the interest of justice, it is necessary to restrain further action against the plaintiff on the basis of Ext.A1 till the disposal of the suit. Therefore, so long as the order of injunction continues to be in force, status quo as on the date of passing of the injunction order has to be continued until the said order is cancelled or modified in the light of any subsequent events. Therefore, even though the contention of the 7th respondent is that the defect as noticed has been rectified by passing an order adhering to the principles of natural justice, that by itself will not have the effect of modification of the order passed by the Munisff's Court. However, it will be open to the 7th respondent to approach the said court and seek necessary modification or changes, as the case may be. So long as it is not done, we cannot appreciate the contention that because a subsequent order has been passed by the 7th respondent, the order of injunction is not in force. In this connection, we may also mention that the 4th respondent himself has approached this Court by filing W.P.(C).No.5332/2007 alleging police harassment. It was

found that since the matter was already seized before the civil court, it will not be justified in expressing any opinion on the various contentions raised by the parties and bound to obey the orders, so long as the order is in force. We do not find any sufficient reason to take a different view merely because the appointee under Ext.P1 has approached this Court. So long as Ext.R4(a) continues to be in force, the parties have to abide by the said order and in view of the above position and since the matter is pending before the civil court, leaving open the right of the parties to approach this Court for appropriate orders, the relief sought for police protection is declined.

Writ Petition stands dismissed.

P.R.RAMAN,
Judge.

K.HEMA,
Judge.

kcv.